



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 13, 1996

Ms. Linda Wiegman  
Attorney  
Office of General Counsel  
Texas Department of Health  
1100 West 49th Street  
Austin, Texas 78756-3199

OR96-0330

Dear Ms. Wiegman:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 38730.

On January 19, 1996, the Texas Department of Health (the "department") received an open records request for a certain individual's birth certificate and all addenda to that birth certificate. You contend the requested records are excepted from required public disclosure under section 552.115 of the Government Code. However, you did not request an open records decision from this office until February 7, 1996. Consequently, you failed to request a decision within the ten days required by section 552.301(a) of the Government Code.

Section 552.301(a) requires a governmental body to release requested information or to request a decision from the attorney general within ten days of receiving a request for information the governmental body wishes to withhold. When a governmental body fails to request a decision within ten days of receiving a request for information, the information at issue is presumed public. Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. See *Hancock* at 381.

You have not shown compelling reasons why the requested records should not be released.<sup>1</sup> The information is presumed to be public and must be released. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/RWP/ch

Ref: ID# 38730

Enclosure: Submitted records

cc: Ms. Elizabeth A. Allen  
Reporter  
The Brownsville Herald  
1135 East Van Buren  
Brownsville, Texas 78520  
(w/o enclosures)

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<sup>1</sup>We note that because section 552.115 is a "permissive" exception, see Open Records Decision No. 486 (1987), it does not confer confidentiality on the birth certificate and addendum, and thus does not present a compelling interest that overcomes the presumption of openness. See Gov't Code § 552.352 (distribution of confidential information is criminal offense).